FILED June 23, 2010

S181911

IN THE SUPREME COURT OF CALIFORNIA
En Banc

COURT OF APPEAL
FOURTH APPELLATE DISTRICT
DIVISION THREE

THE PEOPLE,
Plaintiff and Respondent,
v.
MARVIN VERNIS SMITH,
Defendant and Appellant

No. G040107.

The petition for review is granted.

The above-entitled matter is transferred to the Court of Appeal, Fourth Appellate District, Division Three, with directions to vacate its decision and to reconsider the cause in light of *People v. Guiton* (1993) 4 Cal. 4th 1116. (Cal. Rules of Court, rule 8.528(d).)

George

Chief Justice

Kennard

Associate Justice

Baxter

Associate Justice

Werdegar

Associate Justice

Chin

Associate Justice

Moreno

Associate Justice

Corrigan

Associate Justice